

INITIAL STATEMENT OF REASON
Requesting Information from the Department
TITLE 13, ARTICLE 5.0
Section 350.24

Since 1961, the department has been authorized to sell copies of all or part of its records. In 1989, the statutes governing the department's release of information were amended to require holders of commercial requester accounts to file a surety bond.

The department has reviewed its surety bonds and is standardizing its bond forms and amending the accompanying regulations where necessary. The requirements and conditions stated in the Vehicle Code are reflected in the bond form and accompanying regulations. Thus, the Department of Motor Vehicles (the department) proposes to amend Section 350.24 of Article 5, Chapter 1, Division 1, Title 13 of the California Code of Regulations.

§350.24. BOND REQUIREMENTS FOR A COMMERCIAL REQUESTER ACCOUNT WITH ACCESS TO CONFIDENTIAL ADDRESS INFORMATION.

The section title has been amended to delete the phrase "with an application" because the bond is required the entire time an account is maintained. The term "nongovernmental" has been replaced with "commercial" to more closely follow the wording in statute. The title has also been amended to identify the product an applicant would receive, which is an account and not the code assigned to an account. The addition of the phrase "with access to confidential address information" was added because the surety bond is only required under Vehicle Code section 1810.2(c) when confidential address information is provided to an account holder. The title changes are necessary to provide a clearer and more precise explanation of the section's content.

Surety bond form INF 1132(Rev. 9/2004)

This form is necessary to document that a surety bond was properly issued by an admitted surety insurer for a commercial requester account holder receiving confidential information as required under Vehicle Code section 1810.2. The surety bond identifies the person or entity assuming the financial obligation for the period in which a commercial requester holds an account.

The upper right corner includes a line for the surety to enter the bond number, which is the typical method used by the surety to track its bonds. The account number is the method the department uses to match each bond to each requester account.

In the body of the bond, the following information is required. The full, true name of the commercial requester account holder/applicant/principal and the address where legal documents may be served on the commercial requester account holder/applicant/principal are required to identify the commercial requester account holder. The name and business address where legal documents may be served on the surety along with the state or country where incorporation documents are filed for the surety are required to identify the surety company assuming the bond risk. This information is necessary to adequately identify who is asking for the bond, the surety issuing the bond, and under what authority the bond is issued.

The middle portion of the surety bond form requires the date the bond becomes effective. This is necessary to inform all parties of the date the conditions of the bond are in effect.

At the bottom of the form is the standard departmental certification. It requires the city, county, and state where the certification is signed, along with the date. The written signature and the printed name of the authorized attorney-in-fact are also required. This information is required and necessary to authenticate the certification and identify the person signing for the surety should the bond be activated. The certification is signed under penalty of perjury under the laws of the State of California that the information given is true and correct. The signer is therefore

acknowledging the consequences of making false statements and understands the importance of furnishing correct information. The signature of the person signing the bond and the date that it is signed is necessary to establish a legal basis for holding the surety accountable for the monetary obligation provided on the form.

Instructions on the back of the form explain what information the surety is required to provide. The surety bond form has been revised and sent to the Attorney General's office for approval and after approval will be sent to the Office of Administrative Law for publishing, amending the surety bond in Title 11. The official notification of approval will be incorporated in the final rulemaking file.

In subdivision (a), the text language that duplicates statute is repealed. The Vehicle Code section that authorizes the bond is referenced instead. The surety bond form has been revised and sent to the Attorney General's office for approval. These changes are necessary to provide a clear and concise standard statement for the department's surety bonds that identifies the authority section; who may complete the bond; the bond form by name, number and revision date; and the statutorily mandated conditions required for all California surety bonds in the Code of Civil Procedure.

Subdivision (a)(1) is repealed because it is not a condition found in the Code of Civil Procedure or the authorizing bond statute (Vehicle Code section 1810.2). Subdivision (a)(2) has been amended to become subdivision (a)(1). The language has been amended to incorporate monies due the "State" rather than the department. This is necessary as efforts to investigate or litigate to recover monies may involve other state agencies.

Subdivision (a)(3) has been amended to become subdivision (a)(2). The language has been modified to encompass costs beyond the application and billing fee(s). The broader costs may include physical damage to a database by a worm or virus, the combining of information from various sources to provide information to a third party and providing the department's confidential information to an unauthorized third party. These costs may affect other agencies that are dependent upon DMV's database (such as the California Highway Patrol or the Air Resources Board). Therefore, the term has been expanded to "State" to include all entities that may be affected by unauthorized changes to our records or improper release of information from DMV records. Subdivisions (a)(3) (A), (B) and (C) have also been amended to become subdivisions (a)(2)(A), (B) and (C).

Subdivision (c) has been added to clarify the monetary level required to maintain a valid surety bond. The subdivision also identifies the consequences and the reinstatement requirement should the surety bond not be maintained at the \$50,000 level. This is necessary to inform all parties of the required financial conditions for a surety bond. This procedure is included in the regulations because the department prefers the stated procedure to the default procedure provided in sections 996.020 and 996.030 of the Code of Civil Procedure.

Subdivision (d) has been added to inform the public that the department has determined that cash deposits authorized under Sections 995.710 through 995.770 of the Code of Civil Procedure would create a burdensome, additional workload and thus are not a viable option to the surety bond.